

**CITY OF HORSESHOE BAY**  
**BOARD OF ADJUSTMENT**  
**NOTICE OF PUBLIC MEETING**

**September 22, 2020**

Notice is hereby given to all interested members of the public that the Horseshoe Bay Board of Adjustment will hold a Public Meeting beginning at 3:00 p.m., on Tuesday, September 22, 2020 in the Police Training Room at the Police Station, at #1 Community Drive, Horseshoe Bay, Llano County, Texas.

This meeting will be closed to in-person attendance by the public. A temporary suspension of certain aspects of the Open Meetings Act to allow cities to hold public meetings via telephone has been granted by Governor Abbott. These actions are being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and are in accordance with Section 418.016 of the Texas Government Code. Members of the public may participate via zoom. To join our Zoom Meeting go to <https://us02web.zoom.us/j/82593242301?pwd=VDFQYXpSd1JxcVdHdHg3QUFCSmhJQT09>

Meeting ID: 825 9324 2301

+1 346 248 7799 US (Houston)

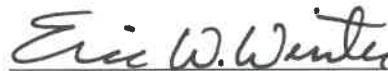
Passcode: 055055

One tap mobile

+13462487799,,82593242301#,,,,,0#,,055055# US (Houston)

The agenda for the Public Meeting is to discuss and/or act on the following:

1. Call the Meeting to Order and Establish a Quorum
2. Pledges to the Flags
3. Approval of the Minutes of the June 22, 2020 Regular Meeting
4. Public Hearing, discuss, consider and take action on BOA Case No. 2020-04, a request by La Bonita Loop 209 LLC., for approval of a Variance to Section 14.02.402(b)(15)(B) Residential Accessory structures and Section 14.02.411 (b)(1) Minimum Setbacks to allow for a 9 foot 5 inch Variance for stairs and walkway to encroach into the 10-foot side yard setback for Lot 209 of Plat No. 2.1 also known as 109 La Bonita in Horseshoe Bay, Texas
5. Adjournment



Eric W. Winter, Development Services Dir.

The Board of Adjustment may go into closed session, if necessary and appropriate, pursuant to the applicable section of the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapter D, on any matter that may come before the Board that is listed on the Agenda and for which a closed session is authorized.

I certify that the above notice of meeting was posted at City of Horseshoe Bay City Hall and website [www.horseshoe-bay-tx.gov](http://www.horseshoe-bay-tx.gov), at least 72 hours prior to the meeting date and time.



Sandra Nash, Assistant Planner

**CITY OF HORSESHOE BAY**  
**BOARD OF ADJUSTMENT**  
**MINUTES OF REGULAR MEETING**

**June 22, 2020**

The Board of Adjustment of the City of Horseshoe Bay held a Regular Meeting in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas, on June 22, 2020, in accordance with the duly posted notice of said meeting.

The posted agenda for this meeting is made a part of these minutes by attachment and the minutes are herewith recorded in the order the agenda items were considered, with the agenda subject and item number shown preceding the applicable paragraph.

**1. Call the meeting to order and establish a quorum**

The meeting was called to order at 3:00 p.m. by Chairman Jim Babcock with a quorum of all Board members present as follows:

Present:

Chairman Jim Babcock  
Board Member Dale Amstutz  
Board Member Frank Gracely  
Board Member John Minyard  
Board Member Bill Carrothers

**2. Pledge to the Flags**

The Pledge to the Flags was led by Frank Gracely.

**3. Election of a Vice Chairman**

Chairman Babcock made a motion to nominate Dale Amstutz as Vice Chairman. The motion was seconded by Frank Gracely. The motion was approved unanimously (5-0).

**4. Approval of Meeting Minutes of the February 25, 2020 Regular Meeting**

A motion to approve the minutes as written was made by Vice Chairman Amstutz and seconded by John Minyard. The motion was approved unanimously (5-0).

**5. Public Hearing, discuss, consider and take action on BOA Case No. 2020-02, a request by Michael and Katherine McLean for approval of a 3 foot 1 inch Variance for one corner of the proposed dwelling to encroach into the side yard setback of Lot No. A-8047 of Horseshoe Bay Applehead Plat No. 8.1, also known as being in the 300 block of Florentine, Horseshoe Bay, Texas**

Prior to Chairman Babcock opening the Public Hearing Mayor Clinesmith thanked the Board Members for their service to the community.

Chairman Babcock opened the Public Hearing at 3:05 PM. Mayor Clinesmith, Don Sherman and one member from the community were in attendance. Chairman Babcock

asked the Board members if they had looked at the property. All Board members indicated they had seen the property. Don Sherman, representing the applicant, said the owners of the lot are requesting a Variance for one corner of their proposed house to encroach 3 feet 1 inch into the side yard setback. The encroachment is on the side next to the 15-foot access easement. Vice Chairman Amstutz asked if the encroachment into the setback is from the access easement or from the house next door. Don Sherman said the setback is from the 15-foot access easement. The proposed house will be 30 feet away from the existing house on the other side of the access easement. Frank Gracely asked if all the Public Notices had been properly posted. Don Sherman stated that they had. Chairman Babcock mentioned that the sign had been posted on the lot. John Minyard asked Don Sherman if he had received any objections to the request. Don Sherman said that he had not received any objections.

A motion to approve the Variance was made by Vice Chairman Amstutz and seconded by John Minyard. The motion was approved unanimously (5-0)

**6. Adjournment**

A motion to adjourn was made by Vice Chairman Amstutz and seconded by Frank Gracely. The motion was approved unanimously (5-0). Chairman Jim Babcock adjourned the meeting at 3:14p.m.

Approved this 27th day of August, 2020.

**City of Horseshoe Bay, Texas**

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**Jim Babcock, Chairman**

**ATTEST:**

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**Eric W. Winter, Development Services Director**



## CITY OF HORSESHOE BAY

SEPTEMBER 22, 2020

**To:** Board of Adjustment  
**Thru:** Stan R. Farmer, City Manager  
**From:** Sandra Nash, Assistant Planner  
**Re:** Public Hearing, discuss, consider and take action on BOA Variance No. 2020-04, a request by La Bonita Loop 209 LLC., for approval of a Variance to Section 14.02.402(b)(15)(B) Residential Accessory Structures and Section 14.02.411(b)(1) Minimum Setbacks to allow for up to a 9 foot 5 inch Variance for stairs and a walkway to encroach into the 10-foot side yard setback of Lot No. 209 of Plat No. 2.1 also known as 109 La Bonita

David Mitchell is requesting an after-the-fact Variance to allow an encroachment of up to 9 feet 5 inches into the 10-foot side yard setback on the west side of Lot No. 209 in Escondido. This is for approval of stairs and a walkway that have already been constructed, and for which David knowingly signed that the work would not be done until a Variance was approved. Thus, the stairs and walkway were constructed without a building permit.

The Board of Adjustment can only grant a Variance after holding a public hearing on the request and finding that:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the land. The applicant states that: "In its natural state, Lot 209 had a 27 foot vertical drop from the point of beginning of the exterior sidewalk system down to the lakefront boat dock level in a short distance of approximately 75 feet. This requires a series of stairs and level landing areas to comfortably transition that vertical climb." Staff: found that to be the case, but must point out that the section of the original plans showing the stairs and walkway to be constructed was scratched through by the applicant, who also signed the plans acknowledging that a Variance had to be approved before those items could be constructed – See attached Site Plan.
2. That the Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant. The applicant states that: "Without an exterior walkway system to access the various levels of the house and boat dock area all foot traffic would be required to enter through the house, sometimes with wet swimming attire and allow pool maintenance personnel outside access to the pool level." Staff:

does not agree that these personnel entering through the house would deprive the applicant with the lack of preservation or enjoyment of a substantial property right.

3. That the granting of the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area. The applicant states that: "The granting of the variance would not be detrimental to the general public health, safety or welfare, or injurious to other property or property owners within the area. The owner/future owners of Lot 209 and their guests are the only segment of the public which would have access to the subject walkway." Staff: agrees, but again, must point out that the walkway was not included as part of the approval of the building permit for this house, and was specifically acknowledged by the applicant to require a Variance, which he did not apply for before constructing the stairs and walkway.
4. That the granting of the Variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this article. The applicant states that: "The granting of this variance effects only Lot 209 and will not prevent the orderly use of any lots in the area since the sidewalk system can only be seen from Lot 208 next door and about three (3) lots from across Pecan Creek in Oak Ridge Estates Subdivision." Staff: agrees that this may be the case, but the applicant has had a history of not complying with City Ordinances, as follows:
  - Two forfeitures of deposits for house permits (including at this address) based on occupation of the house prior to City issuance of a Certificate of Occupancy;
  - Two forfeitures of deposits for expired permits without required inspections; and
  - Damage to City property.He also has created hardships on surrounding property owners from extensive lengths of time to complete a project that had expired and about sub-contractors parking on the street limiting access. This case could serve as an example to the applicant that he needs to comply with all aspects of any approved plan.
5. That the granting of the Variance constitutes a minimal departure from this article. The applicant states that: "Granting of the variance is minimal in that the walkway system will only be visible by one lot owner in Escondido subdivision and not by vehicle traffic on La Bonita" Staff: is of the opinion that his acknowledging of the need for a Variance, and not applying for it before constructing the stairs and walkway is not a minimal departure from the Zoning Article.
6. That the subject circumstances or conditions are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties in the vicinity of the property. The applicant states that: "Though the subject condition is self-imposed, the extreme steepness of Lot 209 demands extreme measures to comfortably overcome the 24-foot vertical climb from the lakefront boat dock level to the street front level." Staff: agrees that the subject condition is self-imposed, and

**because this finding is specifically and irrefutably not met, it is sufficient for the Board to deny his request.**

**Even though the Escondido Architectural Control Committee has approved this Variance request, staff recommends denial of this request based on all of the above findings. If the Board denies the request, the applicant will be required to remove the stairs and walkway and re-apply to the Board for a Variance in order to replace them.**

**Enclosures: Aerial Photo  
Zoning Map  
Site Plan with Applicant's Signature Acknowledging the Requirement of a Variance  
Photographs  
Memorandum regarding citizen response to Public Notice  
Variance Approval Form**



# 109 La Bonita Aerial



Pecan Creek

Site

Escondido Club

LA BONITA

LA SERENA LOOP

LA BONITA

## Legend

109 La Bonita

Street

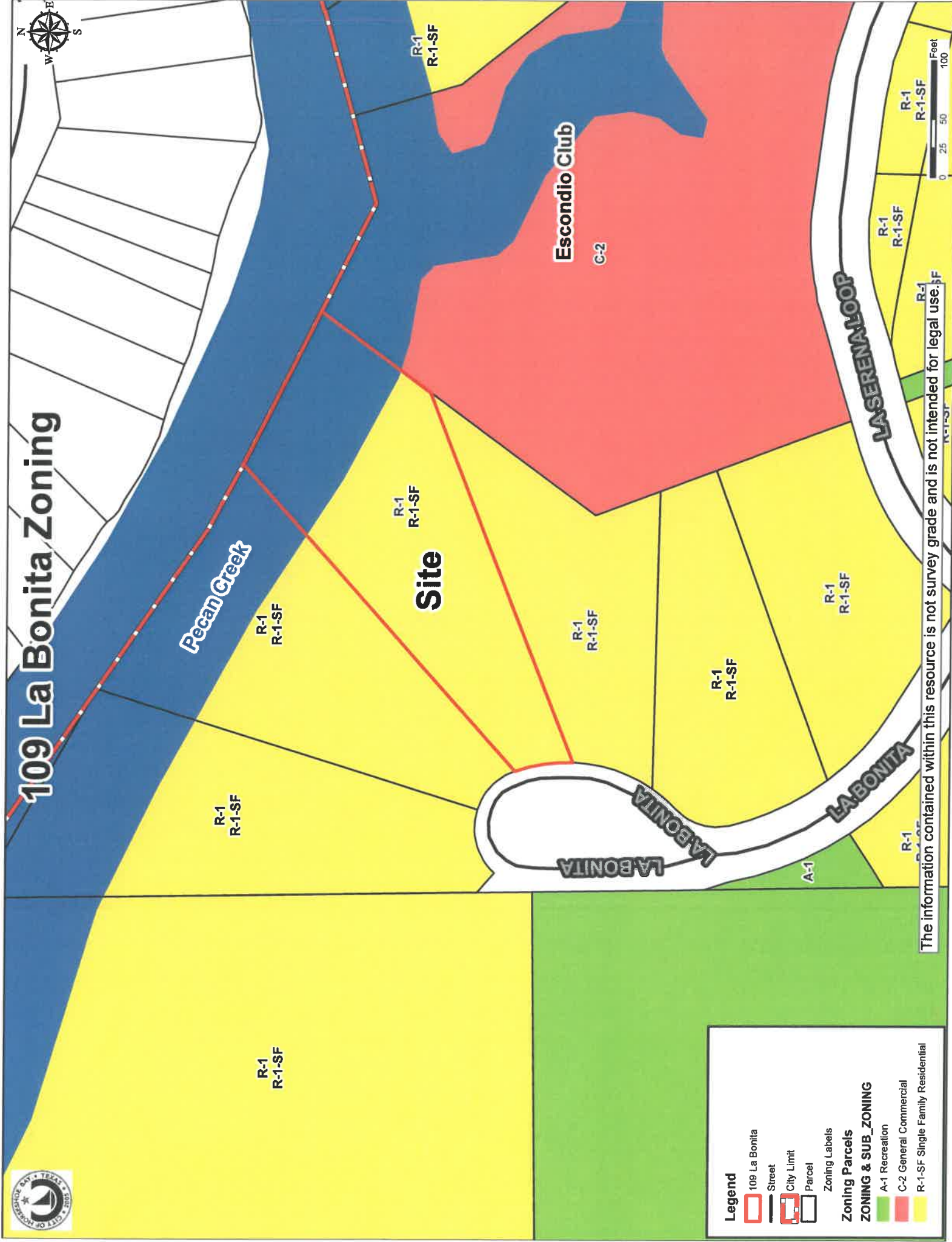
Parcel

The information contained within this resource is not survey grade and is not intended for legal use.





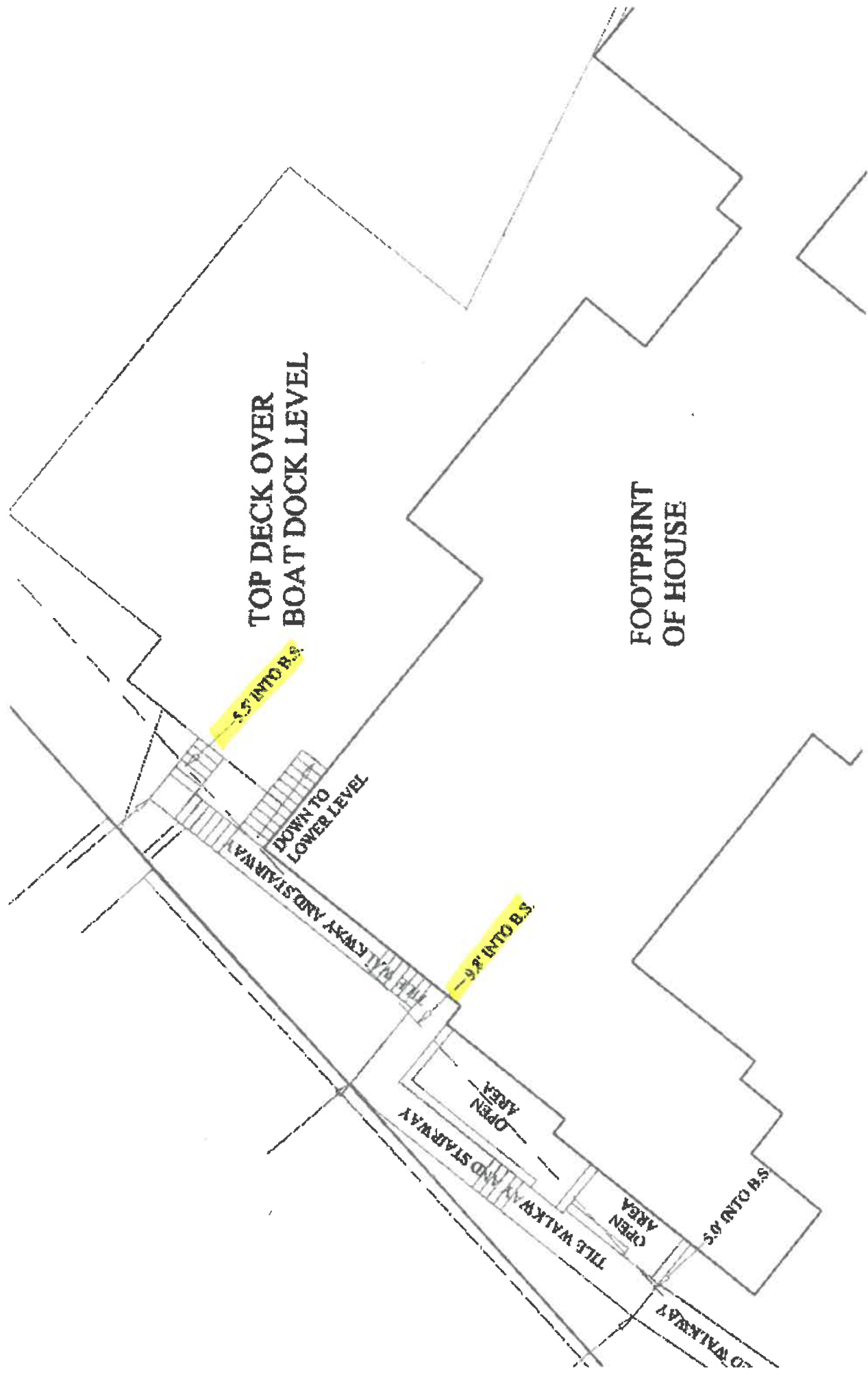
# 109 La Bonita Zoning



## Legend

- 109 La Bonita
- Street
- City Limit
- Parcel
- Zoning Labels
- Zoning Parcels
- ZONING & SUB\_ZONING
  - A-1 Recreation
  - C-2 General Commercial
  - R-1-SF Single Family Residential

The information contained within this resource is not survey grade and is not intended for legal use.



TOP DECK OVER  
BOAT DOCK LEVEL

FOOTPRINT  
OF HOUSE

5.5' INTO B.S.

DOWN TO  
LOWER LEVEL

WALKWAY AND STAIRWAY

5' 0 1/2' INTO B.S.

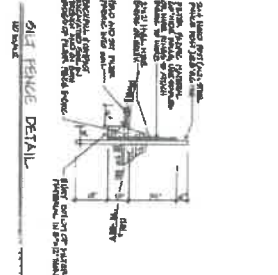
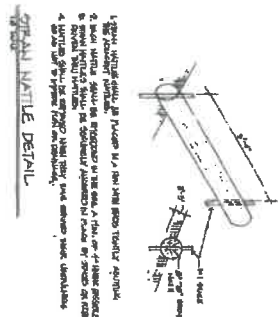
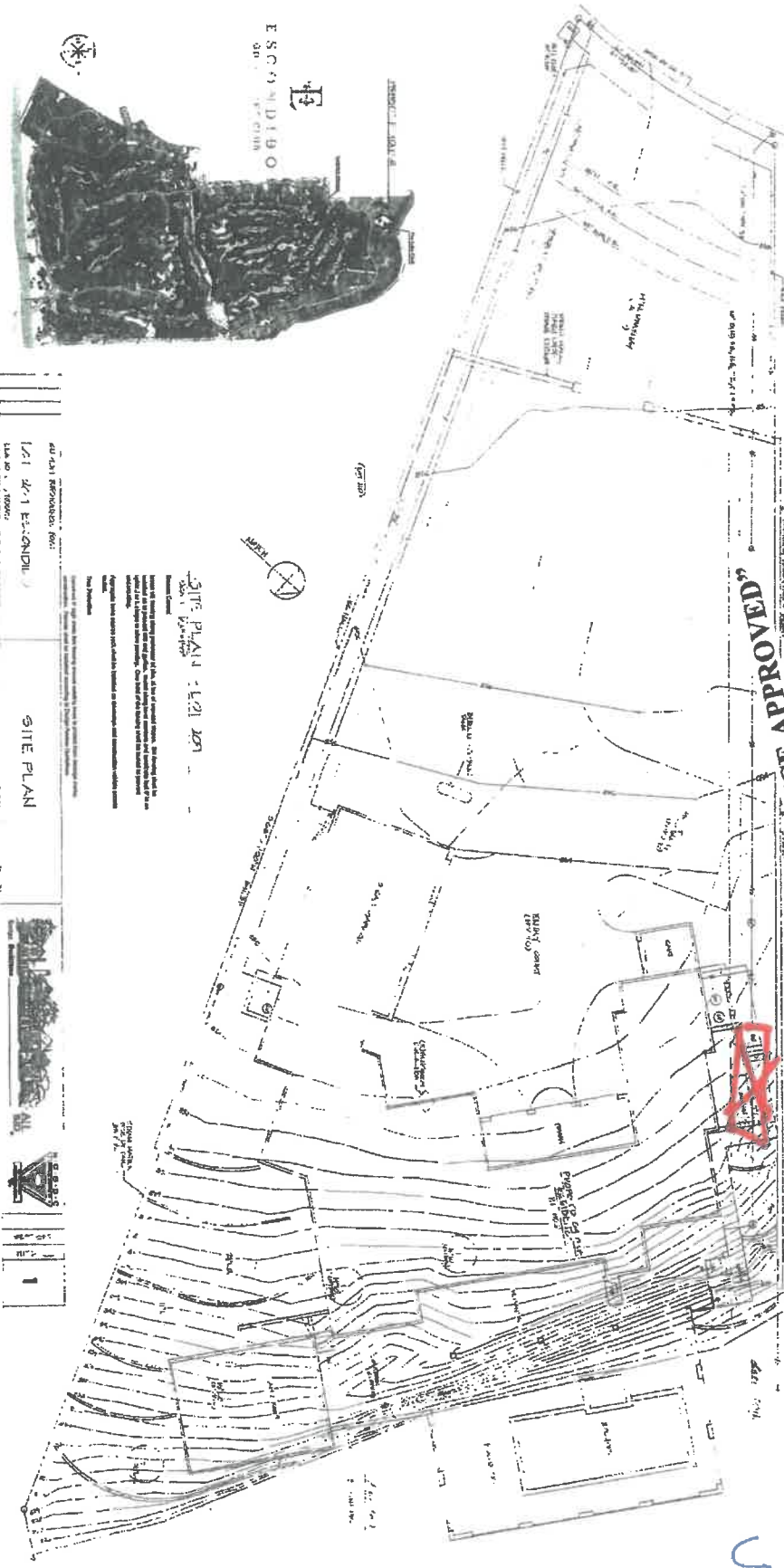
OPEN  
AREA

TILE WALKWAY AND STAIRWAY

OPEN  
AREA

5' 0 1/2' INTO B.S.

WALKWAY



**"APPROVED"**

**DELETED UNTIL VARIANCE APPROVED**

**DAVID MITCHELL'S SIGNATURE**

**DAVID MITCHELL**  
 109 La Bonita  
 109 La Bonita  
 109 La Bonita

**SITE PLAN**  
 109 La Bonita  
 109 La Bonita  
 109 La Bonita

**109 La Bonita**  
 109 La Bonita  
 109 La Bonita

**109 La Bonita**







**Memorandum**

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**Date:** September 17, 2020

**To:** Board of Adjustment

**From:** Sandra Nash, Assistant Planner

**Re:** Variance Request for 109 La Bonita

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On September 17, 2020 I spoke with Mr. Don Stevens regarding the Public Notice he received for the above requested Variance. Mr. Stevens said he was against the variance because the builder had let wet concrete run into the lake when the property was under construction and had never cleaned the concrete out of the lake.

Mr. Stevens lives in Oak Ridge Estates directly across Pecan Creek from this property.



**City of Horseshoe Bay Board of Adjustment**  
**Zoning Variance Case No. 2020-04**

On the 22nd day of September, 2020, the foregoing application of La Bonita Loop 209 LLC., for a Variance with regard to the property described in said application, known as Escondido Plat No. 2.1 Lot 209, also known as 109 La Bonita requested a Variance to build a walkway and stairway without a permit and encroach up to 9 feet, 5 inches into the 10-foot side yard setback was heard and considered by the Board of Adjustment of Horseshoe Bay, Texas. Said application having been found to be in compliance with all other requirements of the City's Zoning Ordinance and a public hearing having been conducted, said application is hereby approved and the following findings are made and incorporated into the minutes of the meeting at which the up to 9 foot, 5 inch Variance to Section 14.02.411(b)(1) of the Zoning Ordinance to encroach into the 10-foot side yard setback in the R-1 Single Family Residential Classification in Zone 9 of Escondido was granted:

1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the City's Zoning Ordinance would deprive the applicant of the reasonable use of the land;
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
3. Granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
4. Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance;
5. Granting of the variance constitutes a minimal departure from the Zoning Ordinance;
6. The subject circumstances or conditions are not self-imposed, based solely on economic gain or loss, or generally affect most properties in the vicinity of the property.

**APPROVED** on this, the 22nd day of September, 2020 by a vote of the Board of Adjustment of the City of Horseshoe Bay, Texas.

**CITY OF HORSESHOE BAY, TEXAS**

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**Jim Babcock, Chairman**

**ATTEST:**

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**Eric W. Winter, Development Services Director**